

REMARKS

This is in full and timely response to the final Office Action dated March 22, 2007. The present Amendment amends claims 4, 5, 18, and 19 in order to modify the dependency of these claims in light of a previous amendment to the claims. Support for these amendments can be found variously throughout the specification, including, for example, original claims 4, 5, 18, and 19. No new matter has been added.

Entry of this Amendment is proper under 37 C.F.R. §1.116 since the amendment: (a) places the application in condition for allowance (for the reasons discussed herein); (b) does not raise any new issues requiring further search and/or consideration; (c) satisfies a requirement of form asserted in the previous Office Action; and (d) places the application in better form for appeal, should an appeal be necessary. Entry of this amendment is respectfully requested. Reexamination and reconsideration in light of the above amendments and the following remarks are respectfully requested.

Claim Rejections- 35 U.S.C. § 103

In the Action, claims 1, 4-7, 15, 18-21 and 43 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,272,097 to Nakao et al. (“Nakao”) in view of U.S. Patent No. 4,876,680 to Misawa et al. (“Misawa”). Additionally, claims 8-14 and 22-28 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nakao in view of U.S. Patent No. 4,876,680 to Misawa, and further in view of U.S. Patent No. 6,078,473 to Crane et al. (“Crane”). This rejection is respectfully traversed.

Each of independent claims 1, 15, and 43 recites, *inter alia*, an optical pickup apparatus comprising an optical member which is provided in a state wherein said optical member closely contacts with a light source, an objective lens and a light receiving element without a gap left therebetween.

In contrast, Nakao while arguably describes an optical head comprising an optical member, which is composed of a diffraction grating (5) and a phase difference generating element (7), and a light source (1), a grating lens (9), and a photo detector elements (3) (see FIG.

8 in Nakao), Nakao fails to disclose, teach, or even suggest an optical member which closely contacts with a light source, an objective lens and a light receiving element. Rather, Nakao explicitly teaches that each of the above elements is separated, as shown, for example, in FIG 8. Each of the elements is separated from the other elements by a transparent layer (4, 6, or 8) or by a transparent substrate (2).

The Final Office Action makes the argument that “said optical member (4-7) is provided in a state wherein said optical member closely contacts with said light source (1), objective lens and light receiving element without a gap left therebetween (as it is part of the same substrate, there is no gap left therebetween)...” (see page 3 of the Final Office Action). However, whether or not there is a “gap” as discussed in the Final Action, Nakao nonetheless fails to teach that each of a light source, an objective lens and a light receiving element are in close contact with the optical member. The specification and drawings of the present Application make clear that “close contact” refers to a state in which the elements in contact with each other.

So, for instance, when the light source (22) of the presently claimed invention is in close contact with the optical member, composed of the polarizing beam splitter (21) and the quarter-wave plate (17), the light source is in fact contacting the optical member itself (see Fig. 1 and page 20, lines 11-13 of the present specification).

On the contrary, Nakao shows that the light source, or beam source (1), is separated from the optical member, or diffraction grating (5) (beam separating element), by a transparent substrate (2) and a transparent layer (4). The optical member of Nakao is arguably comprised of the diffraction grating (5) (beam separating element) and the phase difference generating element (7) (quarter wave plate) (see column 4, lines 9-17), as these are the elements in Nakao which are comparable to the quarter-wave plate (17) and the polarizing beam splitter (21) comprising the Optical member of the presently claimed invention (see page 29, lines 19-24 of the present Specification). Therefore, the light source of Nakao does not come into close contact with the optical member (see FIG. 8 of Nakao).

Likewise, the photo detector element (3) of Nakao is separated from the diffraction grating (5) by a transparent layer (4), and the grating lens (9) (or objective lens (26) in FIG. 13)

is separated from the phase difference generating element (7) (quarter wave plate) by a third transparent layer (8); therefore the photo detector element (3) and lens (9 or 26) of Nakao do not come into close contact with the optical member.

Each of Misawa and Crane fails to cure the deficiencies in Nakao, as pointed out above, *supra*. Accordingly, because Nakao, Misawa, and Crane, either alone or in combination, fail to disclose, teach or suggest each and every limitation of claim 1, 15, and 43, a *prima facie* case of obviousness has not been established, and withdrawal of this rejection is respectfully requested. *See, e.g., In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); *accord*. MPEP 2143.03.

Moreover, aside from the novel limitations recited therein, claims 4-14 and 18-28, being dependent either directly or indirectly upon allowable base claims 1 and 15, are also allowable for at least the reasons set forth above. Withdrawal of the rejection of these claims is therefore courteously solicited.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in immediate condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. SON-2651 from which the undersigned is authorized to draw.

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Respectfully submitted,

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